

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MONTANA
BILLINGS DIVISION**

UNITED STATES OF AMERICA,

Plaintiff,

vs.

JEREMIAH ROBERT WIBERG,

Defendant.

CR 24-92-BLG-SPW

ORDER

Before the Court is Defendant Jeremiah Robert Wiberg's Motion to Amend. (Doc. 49). The Court will not reach the merits of Wiberg's motion at this time. Rather, pursuant to Rule 35(a) of the Federal Rules of Criminal Procedure and the Government's concession that it "inadvertently violated the plea agreement," the Court will reopen sentencing to hear argument consistent with the plea agreement. (Doc. 54 at 3).

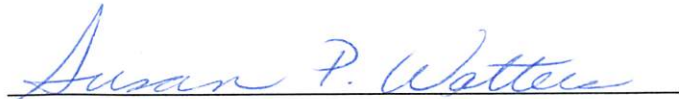
Rule 35(a) states that "[w]ithin 14 days after sentencing, the court may correct a sentence that resulted from arithmetical, technical, or other clear error." Fed. R. Crim. P. 35. Clear errors are errors that would almost certainly result in reversal on appeal. *See United States v. Sanchez-Villarreal*, 857 F.3d 714 (5th Cir. 2017) (clear error was facially apparent from the record). Here, the Government concedes that it breached the plea agreement on the record, and thus, an appeal would almost

certainly result in reversal. (Doc. 54 at 3). Provided this error, the Court will reopen sentencing for the limited purpose of allowing the parties to make legal argument consistent with the plea agreement and relatedly, to Wiberg's USSG §5K2.23 argument. (Doc. 49). Because the proceeding involves the potential correction or reduction of sentence under Rule 35, the Defendant need not be physically present at the hearing. Fed. R. Crim. P. 43(b)(4).

IT IS HEREBY ORDERED that, pursuant to Rule 35(a) of the Federal Rules of Criminal Procedure, a corrective sentencing hearing is set for **Monday, September 8, 2025, at 9:30 a.m.**, in the James F. Battin Courthouse, 2601 Second Avenue North, Billings, Montana.

The clerk shall notify counsel and the probation office of the entry of this Order.

DATED this 24th day of July, 2025.



SUSAN P. WATTERS
United States District Judge